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**PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Douglas Barry et al.
Serial No : 10/626,463
Filed : July 24, 2003
Title : Conveyor Track Drive
Group No. : 3676

PETITION TO ACCORD FILING DATE IN NONPROVISIONAL APPLICATION

Office of Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The undersigned attorney for applicants received a Notice of Incomplete Nonprovisional Application dated September 10, 2004. A filing date was not accorded to the application papers because it was alleged that the application was deposited without drawings.

The undersigned attorney disputes this allegation, and provides the following evidence establishing that drawings were in fact included with the original application papers:

- (1) A copy of the original Form PTO/SB/05 Utility Patent Application Transmittal; and
- (2) A copy of the Return Receipt postcard stamped by the Patent Office.

The Transmittal form, signed and dated by the undersigned, shows that four sheets of drawings were included as a part of the application elements.

The Return Receipt postcard also shows that four sheets of drawings were enclosed with the application, and that the application was received by the Patent Office.

It is also believed pertinent that the Notice of Incomplete Application was not sent to the undersigned until more than 13 months had passed from the date of filing. In fact, the undersigned also submitted two separate Status Inquiries in this case (which went unanswered) before the Notice was mailed.

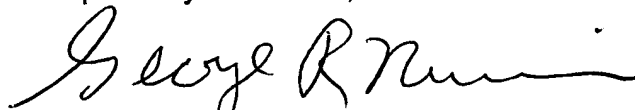
In view of the above, it is believed to be clearly shown that the drawings in this case were filed with the application, and were inadvertently misplaced by the Patent Office during the nearly 14 months that the application was in the possession of the Patent Office.

For all of these reasons, it is believed that this application is entitled to the original filing date of July 24, 2003.

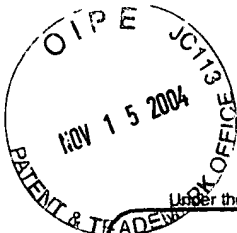
Because the application is entitled to the original filing date, it is also requested that the Petition Fee of \$130.00 be refunded.

A credit card payment form PTO-2038, for payment in the amount of \$130.00 is enclosed herewith for the petition fee set forth in 37 CFR 1.17(h).

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "George R. Nimmer".

GEORGE R. NIMMER
Registration No. 21,004
Attorney of Record
PO Box 252
Omaha, NE 68101-0252



PTO/SB/05 (06-03)

Approved for use through 07/31/2003. OMB 0651-0032

U.S. Patent and Trademark Office. U.S. DEPARTMENT OF COMMERCE

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**UTILITY
PATENT APPLICATION
TRANSMITTAL**

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.

First Inventor

Title

Express Mail Label No.

Douglas Barry

Converg Track Drive

EU 644948 67345

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO:

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

1. ☐ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. ☒ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☒ Specification [Total Pages 15]
(preferred arrangement set forth below)
- Descriptive title of the invention
- Cross Reference to Related Applications
- Statement Regarding Fed sponsored R & D
- Reference to sequence listing, a table,
or a computer program listing appendix
- Background of the invention
- Brief Summary of the invention
- Brief Description of the Drawings (if filed)
- Detailed Description
- Claim(s)
- Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets 4]
5. Oath or Declaration [Total Sheets _____]
a. ☐ Newly executed (original or copy)
b. ☐ Copy from a prior application (37 CFR 1.63(d))
(for continuation/divisional with Box 18 completed)
i. ☐ **DELETION OF INVENTOR(S)**
Signed statement attached deleting inventor(s)
name in the prior application, see 37 CFR
1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76

7. ☐ CD-ROM or CD-R in duplicate, large table or
Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
a. ☐ Computer Reader Form (CRF)
b. Specification Sequence Listing on:
i. ☐ CD-ROM or CD-R (2 copies); or
ii. ☐ Paper
c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(b) Statement ☐ Power of
(when there is an assignee) Attorney
11. ☐ English Translation Document (if applicable)
12. ☐ Information Disclosure ☐ Copies of IDS
Statement (IDS)/PTO-1449 Citations
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122
(b)(2)(B)(i). Applicant must attach form PTO/SB/135
or its equivalent.
17. ☐ Other: _____

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: _____

Prior application information: Examiner _____ Art Unit: _____
For CONTINUATION OF DIVISIONAL APPS only, The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☐ Customer Number: _____ OR ☒ Correspondence address below

Name George R. Nimmer

Address PO Box 252

City Omaha State NE Zip Code 68101-0252

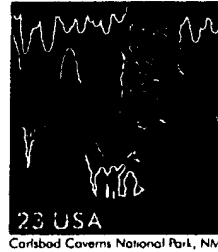
Country USA Telephone 402/393-0151 Fax _____

Name (Print/Type) George R. Nimmer Registration No. (Attorney/Agent) 21,004

Signature George R. Nimmer Date 7-24-03

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



George R. Nimmer
PO Box 252
Omaha, NE 68101-0252

100% Recycled

Enclosed for filing:

- Pat. App. of Douglas Barry et al., entitled:
"Conveyor Track Drive"
- Spec. & 15 pages
- Drawings 4 sheets
- transmittal letter

19704 U.S. PTO

10/626463



07/24/03

Mailed: 7-24-'03 via Express Mail

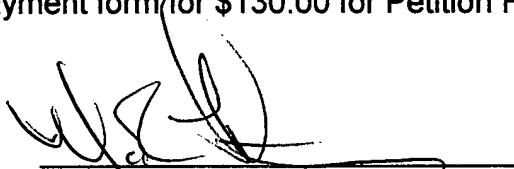


CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that the following documents, with respect to Ser. No. 10/626,463 to Douglas are being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Office of Petitions, Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450:

- (1) Petition to Accord Filing Date;
- (2) Copy of Transmittal Form;
- (3) Copy of Return Receipt postcard;
- (4) Credit card payment form for \$130.00 for Petition Fee

on this 10th of November 2004.



Mark Frederiksen